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9 TIFFANY L. CARROLL
10 ACTING UNITED STATES TRUSTEE

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13 UNITED STATES BANKRUPTCY COURT

14 Southern District of California

15 In re:) Case No. 08-04626-LT13
16)
17 DONALD R. SOUCY,) EX PARTE MOTION
18) FOR ORDER AUTHORIZING
19) EXAMINATIONS UNDER F.R.B.P.
20) 2004, AND REQUEST FOR
21) PRODUCTION OF DOCUMENTS
22)
23 Debtor.) Date: Ex Parte
24) Time: Ex Parte
25) Dept: Three (3)
26) Hon: Laura S. Taylor
27)
28)

19 COMES NOW, the Acting United States Trustee ("U.S.
20 Trustee") and moves ex-parte, pursuant to Rule 2004 of the
21 Federal Rules of Bankruptcy Procedure ("FRBP") and Local
22 Bankruptcy Rules 2004-1 and 9013-6(1)(G), for an Order requiring
23 **Donald R. Soucy** ("Debtor") to appear for examination and to
24 produce those documents described in Exhibit "A" attached
25 hereto.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 1. **INTRODUCTION**

3 The Debtor filed the petition, schedules, and statement of
4 affairs for this case on May 28, 2008 ("Petition Date"). Debtor
5 is represented by counsel Steven R. Houbeck ("Houbeck"). The
6 Acting United States Trustee ("United States Trustee") would
7 like to question the Debtor regarding fees paid to Houbeck for
8 services relating to this case. The Acting United States
9 Trustee would also like to examine various documents to support
10 the information that was filed in the Debtor's bankruptcy
11 concerning fees charged and paid.

12 Based on the foregoing, the U.S. Trustee respectfully
13 requests that this Court issue an Order under FRBP 2004
14 requiring the production of documents described more fully in
15 Exhibit "A" attached hereto and incorporated herein by this
16 reference to the Office of the United States Trustee **no later**
17 **than Wednesday, September 30, 2009.** In addition, the U.S.
18 Trustee requests an Order requiring the Debtor **to appear for**
19 **examination** in accordance with FRBP 9016 and Local Bankruptcy
20 Rule 2004-1 **at the U.S. Trustee's office at 402 West Broadway,**
21 **Suite 600, San Diego, California 92101 on October 6, 2009 at**
22 **3:00 p.m.**

23 2. **THE U.S. TRUSTEE'S REQUEST SHOULD BE GRANTED UNDER**
24 **BANKRUPTCY RULE 2004.**

25 Pursuant to 11 U.S.C. §307, the U.S. Trustee has standing
26 to bring this ex-parte motion. Federal Rule of Bankruptcy
27 Procedure 2004(b) provides that the scope of examination must
28 relate to "acts, conduct, or property or to the liabilities and

1 financial condition of the debtor, **or to any matter which may**
2 **affect the administration of the debtor's estate,** or to the
3 debtor's right to a discharge." Fed. R. Bankr. P. 2004(b)
4 (emphasis added). The production of documents by, and
5 examination of, the Debtor is necessary to enable the U.S.
6 Trustee to supervise the administration of this estate. See 28
7 U.S.C. §§ 586(a)(3) and (a)(5). The U.S. Trustee further
8 believes grounds for action under 11 U.S.C. § 329 may be proper.

9 Federal Rule of Bankruptcy Procedure 2004(c) provides that
10 "The attendance of an entity for examination and for the
11 production of documents, ... may be compelled as provided in
12 Rule 9016 for the attendance of a witness at a hearing or
13 trial." Fed. R. Bankr. P. 2004(c). Federal Rule of Bankruptcy
14 Procedure 9016 provides that Rule 45 of the Federal Rules of
15 Civil Procedure ("FRCP") applies in bankruptcy cases. Federal
16 Rule of Civil Procedure 45(d)(2) provides that a subpoenaed
17 person "may be required to attend at any place within 100 miles
18 from the place where that person resides, is employed or
19 transacts business in person, or is served, or at such other
20 convenient place as is fixed by an order of Court".

21 The U.S. Trustee proposes that the Debtor produce the
22 documents described in Exhibit "A" at the U.S. Trustee's office
23 at 402 West Broadway, Suite 600, San Diego, California 92101.
24 According to the Debtor's petition, the Debtor resides at an
25 address in San Diego, California, which address is within the
26 100 mile limit. Therefore, under FRCP 45, the Debtor may be
27 compelled to produce the documents at the U.S. Trustee's office.

28 / / /

1 WHEREFORE the U.S. Trustee prays that Orders be entered
2 under FRBP 2004 authorizing: 1) the production of documents
3 requested in Exhibit "A", no later than **September 30, 2009**, and
4 2) the examination of the Debtor, at the Office of the United
5 States Trustee, **on October 6, 2009 at 3:00 p.m.**, and any other
6 relief deemed just and necessary.

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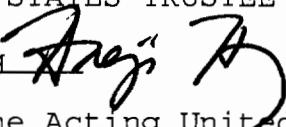
Respectfully submitted,

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TIFFANY L. CARROLL
ACTING UNITED STATES TRUSTEE

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Dated: August 25, 2009

/s/ Haeji Hong 
Haeji Hong,
Attorney to the Acting United
States Trustee

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1 EXHIBIT "A"
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- 4 1. All Documents related to agreement for legal
5 services to be provided to the Debtor by Steven
6 Houbeck, including but not limited to fee or
7 retainer agreements; and
- 8 2. All Documents that evidence proof of payment to or on
9 behalf of Steven Houbeck, including but not limited to
10 cancelled checks, credit card statements, check
11 ledger, receipts and/or any other documents.

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28 The words "Document" or "Documents" in the singular or plural, shall mean any document, including, but not limited to, any kind of printed, recorded, written, graphic, photographic, magnetic, or electronic matter (including, without limitation, tape recordings and material for computer use), however printed, produced, or reproduced, coded or stored, of any kind or description, whether sent or received or not, including all originals, copies, reproductions, facsimiles, drafts, and both sides thereof, and including, without limitation: papers, books, accounts, letters, models, photographs, correspondence, telegrams, telex messages, memoranda, notes, notations, work papers, routing slips, intra and interoffice communications, intra and interdepartmental communications, transcripts, minutes, agenda, reports, notes or recordings of telephone or other conversations, or of interviews, or of conferences, affidavits, drawings, sketches, blueprints, statements, summaries, opinions, evaluations, appraisals, contracts, invoices, receipts, purchase orders requisitions, notebooks, entries, ledgers, journals, books or records of accounts, questionnaires, answers to questionnaires, petitions, desk calendars, appointment books, diaries, policy statements, manuals, rules, regulations, guidelines, newspaper stories, computer printouts, microfilm, microfiche, and material underlying, supporting or used in the preparation of any such documents and any similar material.